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(d) Keep records of the engine identification number for each engine or piece of equipment you produce that generates or uses emission credits under the ABT program. You may identify these numbers as a range. If you change the FEL after the start of production, identify the date you started using each FEL and the range of engine identification numbers associated with each FEL.

(e) We may require you to keep additional records or to send us relevant information not required by this section in accordance with the Clean Air Act.

§ 1054.740 What special provisions apply for generating and using emission credits?

(a) You may generate Phase 3 emission credits from 2008 through 2011 model year Class I engines if you voluntarily meet the Phase 3 exhaust emission standards specified in § 1054.105. Divide these into transitional and enduring emission credits as follows:

(1) Transitional credits are based on reducing emissions from Phase 2 levels down to Phase 3 levels. Calculate the value of transitional emission credits as described in § 1054.705, based on setting STD equal to 15.0 g/kW-hr and FEL equal to 10.0 g/kW-hr. You may use these transitional credits only for Class I engines in 2012 through 2014 model years. You may not use these transitional credits for Class II engines.

(2) Enduring credits are based on reducing emissions below Phase 3 levels. Calculate the value of enduring credits as described in § 1054.705, based on setting STD equal to 10.0 g/kW-hr and FEL to the value of the family emission limit you select for the family. You may use these enduring credits for any nonhandheld engines certified to the Phase 3 standards under this part, except as specified in paragraph (d) of this section.

(b) You may generate Phase 3 emission credits from 2008 through 2010 model year Class II engines if you voluntarily meet the Phase 3 exhaust emission standards specified in § 1054.105. Divide these into transitional and enduring emission credits as follows:

(1) Transitional credits are based on reducing emissions from Phase 2 levels down to Phase 3 levels. Calculate the value of transitional emission credits as described in § 1054.705, based on setting STD equal to 11.0 g/kW-hr and FEL equal to 8.0 g/kW-hr. You may use these transitional credits only for Class II engines in 2011 through 2013 model years. You may not use these transitional credits for Class I engines.

(2) Enduring credits are based on reducing emissions below Phase 3 levels. Calculate the value of enduring credits as described in § 1054.705, based on setting STD equal to 8.0 g/kW-hr and FEL to the value of the family emission limit you select for the family. You may use these enduring credits for any nonhandheld engines certified to the Phase 3 standards under this part, except as specified in paragraph (d) of this section.

(c) You may use emission credits generated by Class I and Class II engines subject to Phase 2 emission standards under 40 CFR part 90 to demonstrate compliance with the Phase 3 exhaust emission standards, but only after you have exhausted all transitional credits from engines meeting Phase 3 standards, subject to the conditions of paragraph (d) of this section. You may use these Phase 2 emission credits only in the 2012 and 2013 model years for Class I engines and only in the 2011 through 2013 model years for Class II engines. Determine a maximum number of Phase 2 emission credits for demonstrating compliance with the Phase 3 standards for a given engine class (Class I or Class II) as follows:

(1) Calculate a Phase 2 credit allowance for each engine class based on production information for model years 2007, 2008, and 2009 using the following equation:

$$\text{Credit allowance (kg)} = (\text{Emissions Delta}) \times (\text{Volume}) \times (\text{Avg. Power}) \times (\text{Avg. UL}) \times (\text{LF}) \times (10^{-3})$$

Where:

Emissions Delta = 1.6 g/kW-hr for Class I and 2.1 g/kW-hr for Class II.

Volume = the number of your engines eligible to participate in the averaging, banking, and trading program, as described in § 1054.701(i), based on actual U.S.-directed production volumes.

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Avg. Power = the production-weighted average value of the maximum modal power for all your engine families in the engine class, as described in § 1054.705(a), in kilowatts.

Avg. UL = the production-weighted average value of the useful life for all your engine families in the engine class, in hours.

LF = load factor. Use 0.47.

(2) Do not include wintertime engines in the calculation of credit allowances unless they are certified to meet the otherwise applicable HC+NO_x emission standard.

(3) Calculate the average annual Phase 2 credit allowance for each engine class over three model years as specified in paragraph (c)(1) of this section. The resulting average value is the maximum number of Phase 2 emission credits you may use under this paragraph (c) for each engine class.

(4) For 2013 and earlier model years, include in the reports described in § 1054.730 the total allowable number of Phase 2 emission credits and your cumulative totals of Phase 2 credits you have used to comply with the requirements of this part for each engine class.

(d) If you generate enduring emission credits from Class I engines under paragraph (a) of this section, you may not use these for Class II engines in the 2011 or 2012 model year. Similarly, if you generate enduring emission credits from Class II engines under paragraph (b) of this section, you may not use these for Class I engines in the 2012 model year. These restrictions also apply for emission credits you generate for engines subject to the standards of this part in the 2011 or 2012 model year.

(e) You may use Phase 2 or Phase 3 emission credits from nonhandheld engines to demonstrate compliance with the Phase 3 standards for handheld engines subject to the following restrictions:

(1) The handheld family must be certified in 2008 and all later model years using carryover of emission data from an engine family that was most recently certified with new emission data in 2007 or an earlier model year.

(2) The handheld family's FEL may not increase above the level selected for the 2007 model year in later years unless such an increase is based on emission data from production engines.

(3) Your total production of handheld engines certified under this paragraph (e) may not exceed 30,000 in any model year.

§ 1054.745 What can happen if I do not comply with the provisions of this subpart?

(a) For each family participating in the ABT program, the certificate of conformity is conditional upon full compliance with the provisions of this subpart during and after the model year. You are responsible to establish to our satisfaction that you fully comply with applicable requirements. We may void the certificate of conformity for a family if you fail to comply with any provisions of this subpart.

(b) You may certify your family to an FEL above an emission standard based on a projection that you will have enough emission credits to offset the deficit for the family. However, we may void the certificate of conformity if you cannot show in your final report that you have enough actual emission credits to offset a deficit for any pollutant in a family.

(c) We may void the certificate of conformity for a family if you fail to keep records, send reports, or give us information we request.

(d) You may ask for a hearing if we void your certificate under this section (see § 1054.820).

Subpart I—Definitions and Other Reference Information

§ 1054.801 What definitions apply to this part?

The following definitions apply to this part. The definitions apply to all subparts unless we note otherwise. All undefined terms have the meaning the Clean Air Act gives to them. The definitions follow:

Adjustable parameter means any device, system, or element of design that someone can adjust (including those which are difficult to access) and that, if adjusted, may affect emissions or engine performance during emission testing or normal in-use operation. This includes, but is not limited to, parameters related to injection timing and fueling rate. You may ask us to exclude a parameter that is difficult to